



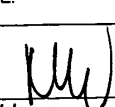
# UNITED STATES PATENT AND TRADEMARK OFFICE

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/757,956	01/15/2004	Robert L. Leon	10369-4US	5068
570	7590	12/28/2004		
AKIN GUMP STRAUSS HAUER & FELD L.L.P. ONE COMMERCE SQUARE 2005 MARKET STREET, SUITE 2200 PHILADELPHIA, PA 19103-7013				
			EXAMINER THOMPSON, HUGH B	
			ART UNIT 3634	PAPER NUMBER

DATE MAILED: 12/28/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No.	Applicant(s)	
	10/757,956	LEON, ROBERT L.	
	Examiner	Art Unit	
	Hugh B. Thompson II	3634	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).

Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

1) ☒ Responsive to communication(s) filed on 15 January 2004.

2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.

3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

4) ☒ Claim(s) 1-44 is/are pending in the application.

4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.

6) ☒ Claim(s) 1-44 is/are rejected.

7) ☒ Claim(s) 1 and 37-39 is/are objected to.

8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

9) ☐ The specification is objected to by the Examiner.

10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a) ☐ All    b) ☐ Some \* c) ☐ None of:

1. ☐ Certified copies of the priority documents have been received.

2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.

3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date <u>1-15-04</u> .	4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) 6) <input type="checkbox"/> Other: _____
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## DETAILED ACTION

### *Election/Restrictions*

This application contains claims directed to the following patentably distinct species of the claimed invention: a speed increaser having gears or a belt and pulley arrangement; an energy dissipating mechanism having an air resistance fan, generator and resistance, or an eddy current brake; and a force limiting mechanism having a torque limiting mechanism, an energy absorbing web in-line with the cable, or a reduced spring constant of the played out cable.

Applicant is required under 35 U.S.C. 121 to elect a single disclosed species for prosecution on the merits to which the claims shall be restricted if no generic claim is finally held to be allowable. Currently, claims 1, 5, 18, and 19, are generic.

Applicant is advised that a reply to this requirement must include an identification of the species that is elected consonant with this requirement, and a listing of all claims readable thereon, including any claims subsequently added. An argument that a claim is allowable or that all claims are generic is considered nonresponsive unless accompanied by an election.

Upon the allowance of a generic claim, applicant will be entitled to consideration of claims to additional species which are written in dependent form or otherwise include all the limitations of an allowed generic claim as provided by 37 CFR 1.141. If claims are added after the election, applicant must indicate which are readable upon the elected species. MPEP § 809.02(a).

Should applicant traverse on the ground that the species are not patentably distinct, applicant should submit evidence or identify such evidence now of record showing the species to

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be obvious variants or clearly admit on the record that this is the case. In either instance, if the examiner finds one of the inventions unpatentable over the prior art, the evidence or admission may be used in a rejection under 35 U.S.C. 103(a) of the other invention.

During a telephone conversation with Mr. Leslie Kasten on December 22, 2004 a provisional election was made without oral traverse to prosecute the invention of the speed increaser drawn to an arrangement of gears, the energy dissipating mechanism comprising an air resistance fan, and a cable force limiting mechanism that is a an energy absorbing web in-line with the cable, claims 6, 8, and 20. Affirmation of this election must be made by applicant in replying to this Office action. Claims 7, 10-13, and 21-24, are withdrawn from further consideration by the examiner, 37 CFR 1.142(b), as being drawn to a non-elected invention.

***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1-44 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

With respect to claims 1, 37, 38, and 39, the applicant has failed to properly structurally relate the housing the harness. It is suggested that the applicant recite that the housing is directly secured/affixed within or to the harness, and that the harness is securable/affixable to the person.

In addition, for claims 1, 38, and 39, with respect to the “characteristics” of the energy dissipating mechanism/means, the applicant needs to recite (in general) that the “graphs of the curves/lines” of the slopes of energy dissipated and potential energy released intersect, and at that point intersection, the slopes are “equal”. It appears, from the applicant’s disclosure, that the only point at which the slope of the rate of energy dissipated (curve) exceeds the slope of the rate of potential energy released (curve), is at a point “beyond” the point of intersection of the two curves, i.e., above a specified value in watts relative to a specified speed of descent. It appears that beyond this point of intersection is where the slow descent speed is achieved. Further, as best seen in Figures 2 and 5, it appears that these multiple points of intersection are correlated to the specific weight of the person using apparatus at any given time. As such, it appears that the weight of the person should be some how “claimed” as one of those “characteristics”, i.e., a contributing factor of the energy dissipating mechanism/means.

With respect to claim 25, the generic form of “VELCRO”, i.e. hook and loop fastener, should be recited. (In the specification, all references to VELCRO and ResQline<sup>TM</sup> should be appropriately represented).

With respect to claims 32 and 33, the applicant has positively recited the combination of the apparatus and the building. It is suggested that the applicant use the phrase “adapted to” when referring to unclaimed elements such as the building.

With respect to claims 35 and 36, the applicant fails to properly recite necessary structural relationships between the air filtration system and the apparatus. Correction is required. Claims 40-44 recite similar ambiguities with respect to the cable retraction mechanism, the mechanism to protect the cable during descent, the device to protect against heat exposure

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injury, and the full head protection helmet. As such, no rejection based upon the prior art of record can be made at this time with respect to claims 40-44, as this would require undue speculation on the part of the Examiner as to determine the metes and bounds of the claims.

With respect to claim 37, the applicant has failed to properly relate the step of descending to the energy dissipating mechanism, i.e., what causes descent to “the sufficiently slow descent speed?” It is suggested that the applicant recite the characteristics of the energy dissipating mechanism as recited in claims 1, 38, and 39, or recite an energy dissipating “means” and the corresponding functioning.

#### ***Allowable Subject Matter***

Claims 1 and 37-39 would be allowable if rewritten or amended to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action. The following is a statement of reasons for the indication of allowable subject matter: the inclusion of the energy mechanism/means (air resistance fan) located within the housing and the housing directly securable to/within a harness, the harness being attachable to the user. The prior art of record fails to teach or suggest the claimed features absent the applicant's own disclosure.

#### ***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Takeshima #6,808,047, Meller #6,550,576, Okamura #6,371,244, Tien #5,842,542, Takahashi #5,581,901, Ishioka #5,060,758, Hiraoka #4,722,422, Walborn #4,640,388, Bianchi

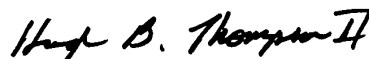
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#4,171,795, Tsdua #3,946,989, Pugh #3,556,261, and Dietz #1,296,052 are cited to teach escape apparatuses.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Hugh B. Thompson II whose telephone number is (703) 305-0102. The examiner can normally be reached on Monday thru Friday 9 am to 5:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Peter Cuomo can be reached on (703) 308-0827. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Hugh B. Thompson II  
Primary Examiner  
Art Unit 3634

December 22, 2004